THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2061 of 2007

19.4.2007

Between:

The Gram Panchayat, Bardipur, represented by its Sarpanch
Smt.Kotla Padma, W/o.Dasarath

… Petitioner

AND

The Collector (Panchayat Wing), Nizamabad District
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2061 of 2007

ORDER:

The Gram Panchayat, Bardipur, filed the instant writ petition seeking invalidation of the proceedings of the second respondent in Roc.No.29/2007-B4-(Pts)-1, dated 12.1.2007, wherein the Sub Registrar, Nizamabad, was requested to distribute stamp duty and local cess between Bardipur Gram Panchayat and Dharmaram Gram Panchayat, fourth respondent herein, in the ratio of 3 : 7, and property tax at 100% to the concerned Gram Panchayat. The copy thereof was also marked to the District Registrar and Divisional Panchayat Officer, Nizamabad.

The background facts in brief may be noticed. Bardipur Gram Panchayat consisted of three revenue villages, namely, Arepally, Bardipur and Dharmaram. In 1978, Bardipur Gram Panchayat was bifurcated by the District Collector (Commissioner) in accordance with Section 3(1)(2)(a) of A.P. Gram Panchayats Act, 1964. A notification in Roc. No.527/78-A2(Pts), dated 23.8.1978 was accordingly issued. Bardipur and Arepally villages are formed into Bardipur Gram Panchayat and the entire hamlet of Dharmaram is formed as Dharmaram Gram Panchayat. Different extents of lands in various survey numbers were also distributed between the two Gram Panchayats as per the schedule and annexure to the notification dated 23.8.1978. Petitioner alleges that as per another proceedings dated 23.8.1978 (even date), the District Collector ordered that the assets and liabilities of Bardipur Gram Panchayat as on 01.9.1978 shall be divided between Bardipur and Dharmaram in the ratio of 7 : 3. Petitioner alleges that even in 1981, Sarpanch of Bardipur Gram Panchayat also submitted a representation for rectifying the difference in distribution of the assets. While the same was pending, considering

the representation of fourth respondent, the impugned proceedings were issued. Petitioner contends that for the last twenty-five years, the assets and revenues are being distributed in the ratio of 1 : 3 between Dharmaram and Bardipur and suddenly the ratio is changed as 7 : 3, which is illegal and improper. He also contended that in the relevant proceedings dated 23.8.1978 the ratio was interpolated as 7 : 3, which is arbitrary and illegal.

At the stage of admission itself, the District Panchayat Officer (DPO), Nizamabad, filed counter affidavit. Fourth respondent also filed a separate counter affidavit denying the petition averments. Paragraph 3 of the counter affidavit of second respondent contains the gist of the case. It may be extracted as under.

> … … … it is respectfully submitted that, Dharmaram hamlet constituted into a separate Gram Panchayat from the Bardipoor Gram Panchayat vide Collector (P.W.), Nizamabad vide proceedings No.527/78-A2(Pts) 23.8.1978 as per the G.O.Ms.No.64 Panchayat Raj dt.30.1.1964 and Dharmaram Gram Panchayat is functioning separately with effect from 1.9.1978. On the basis of said bifurcation orders the Respondent No.1 has issued the orders, vide procs. No.540/80-A2(Pts) dt.30.10.1981 for apportionment and adjustment of local cess for these Gram Panchayats in the Ratio of 3:7 i.e., for Bardipoor 3/10and Dharmaram 7/10. The 4th respondent Gram Panchayat filed a letter on 16.12.2007 stating that the sub-registrar is not adjusting the stamp duty, property tax to Gram Panchayat, Dharmaram (B), in fact in 2005-06 year no amount was adjusted. As such a letter has been addressed to the Sub-regtistrar, Nizamabad vide Roc.No.29/2007-B dt.12.1.2007 asking the sub registrar to implement the existing orders and to distribute the stamp duty and property tax in the ratio of 3:7 between Bardipoor and Dharmaram basing upon the orders issued by respondent No.1 vide Procs.No.540/80-A2(Pts), dt.30.10.1981.

The counter affidavit also makes reference to the proceedings of first respondent dated 30.10.1981 for apportionment of local cess between Bardipur and Dharmaram in the ratio of 1 : 3. The other allegations are denied. The sarpanch of petitioner Gram Panchayat filed reply affidavit alleging that the ratio of 1 : 3 between Dharmaram and Bardipur was mischievously interpolated by the fourth respondent as 7 : 3 based on which the proceedings dated 30.10.1981 was issued. It is also alleged as under.

> I respectfully submit that there is interpolation of figures 1 as 7 in the proceedings dt.23.8.78 issued by the first respondent. The same is very much evident from the other letter ‘7’ typed in the same proceedings at different place. The letter ‘7’ typed in the date of proceedings is different from that

of the letter mentioned in the ratio. After interpolating the ratio figure '1' as '7' the 4th respondent herein appears to have obtained proceedings from the first respondent in the year 1981 i.e on 30.10.1981. But on the representation filed by the then sarpanch of Gram Panchayat, the said proceedings was also not given effective till the impugned order was passed by the 2nd respondent in the month of Feb., 2007.

Learned Counsel for petitioner mainly pressed the contention, which is noticed from the reply affidavit. Therefore, this Court directed learned Assistant Government Pleader to produce the original file. The file from the office of DPO has been produced, which contains the consequential proceedings bearing Roc.No.527/78-A(Pts.), dated 23.8.1978 issued by the District Collector. After perusing the same, this Court is not able to countenance the submission of learned Counsel for petitioner. Though the file contains Xerox copy of the proceedings, it is not possible to accept the submission that the figure '1' in 1 : 3 was changed as '7' in 7 : 3. There is no such interpolation as alleged. Secondly, as rightly pointed out by the learned Assistant Government Pleader even in their representation dated 25.1.2007 (Ex.P7), petitioner Gram Panchayat accepted the position that initially the distribution of revenues and assets was fixed between Bardipur and Dharmaram in the ratio 3 : 7. While pointing out the same, petitioner requested the Government to change it as 7 : 3 on the ground that survey numbers earmarked for Dharmaram were not continuous to the revenue village.

For the above reasons, the writ petition is misconceived and is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

April 19, 2007.
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